

COMMONWEALTH OF MASSACHUSETTS**SUFFOLK, ss.****BUILDING CODE APPEALS BOARD
DOCKET NO. 11-1064**

_____))
 City of Fall River (Fire Department),)
 Appellant)
)
 v.)
)
 City of Fall River,)
 Appellee)
 _____)

BOARD'S DECISION ON APPEAL**Introduction**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal application filed pursuant to G.L. c.143, §100 and 780 CMR 122.1 ("Application"). Appellant sought a variance from 780 CMR 1009.0 (8th Edition) with respect to a stair installation in the Fall River Fire Department's garage/maintenance facility, located at 140 Commerce Drive, Fall River, MA.

Procedural History

On or about October 6, 2011, the Inspector of Buildings for the City of Fall River issued the following to Appellant:

After an inspection was made by the Building Department, it was determined that the stairs leading from the garage floor to the storeroom above were built according to the one and two family code, 780 CMR, 7th Edition, Article 5311.5, not CMR 780, 7th Edition, Article 1009.0 Stairways and Handrails which is called for in a commercial building. Since the stairs do not comply, you can either replace them with the correct stairs or appeal my decision to the BBRs State Appeals Court in Boston.

The Board convened a public hearing on November 3, 2011, in accordance with G.L.c. 30A, §§10 & 11; G.L.c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided an opportunity to testify and present evidence to the Board. The following exhibits were admitted in evidence: (1) State Building Code Appeals Board Application, received October 11, 2011, including letter dated October 6, 2011 from the City's Inspector of Buildings to Glenn Hathaway; (2) plan dated November 3, 2011, showing stairway leading to storage area; (3) five photographs, three of which show part of former ships-type ladder and lower set of new stairs, two of which show parts of steel framing and block and tackle system for the former ladder; (4) six photographs showing various aspects of new stairs; (5) four photographs showing landings and treads (from above) in the new stairs.

Discussion

The contractor for the Fire Department (Glenn Hathaway) removed a ships-type ladder system in the garage and replaced it with a full set of stairs/stairway, to provide access to a storage area, as shown in Exhibits 2, 3, 4, 5. Hathaway constructed the stairs in compliance with the one- and two-family State Building Code (with the exception that the flights of stairs had 34" rather 36" clear width), rather than in accordance with the commercial or base Code.

The original set of stairs consisted of a ladder system that could be raised and lowered via a block and tackle set-up. As shown in the exhibits, the ladder system, when lowered to the garage floor, blocked a doorway to an office. The City's building official concluded that the stairs, as constructed, were structurally sound and safe (safer than the prior ladder system), and he did not oppose allowing a variance. The City's Fire Department did not oppose allowing a variance.

Conclusion

The Board considered a motion to allow a variance from 780 CMR 1009.0, to accept an alternative design for the stairs, based on the considerations discussed above ("Motion"). The Motion was **approved** by unanimous vote.



H. Jacob Nunnemacher

Jeffrey Putnam, Chair

Alexander MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.

DATED: January 9, 2012